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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BARBARA WILHELM, :
Plaintiff :
v. : 01-CV-1057
COMMONWEALTH OF PA, et al., :
Defendants :

FILED
HARRISBURG, PA

JAN 09 2003

MARY E. D'ANDREA, CLERK

Per 9/9

TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

TESTIMONY OF THOMAS COURY

BEFORE: HON. SYLVIA H. RAMBO, Judge

DATE: September 10, 2002

PLACE: Courtroom Number Three
Federal Building
Harrisburg, Pennsylvania

COUNSEL PRESENT:

NATHAN C. PRINGLE, JR., Esquire
For - Plaintiff

SUSAN J. FORNEY, Esquire
For - Defendant

Vicki L. Fox, RMR
Official Reporter

I N D E XDirect Cross Redirect RecrossDefendants' Witnesses

7.	Thomas Coury				
	By Ms. Forney	4	--	--	--
	By Mr. Pringle	--	20	--	--

E X H I B I T S

Defendants Exhibit

Introduced Admitted

14. Memorandum from Conley to Deputy
Commissioner of Administration regarding
Review of Legislative Affairs Office.

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Coury - Direct

1 MS. FORNEY: Your Honor, the defendants call
2 Thomas Coury.

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5

THOMAS COURY, called as a witness, being duly
sworn, testified as follows:

6

7

THE CLERK: Would you state your name, please?

8

A Thomas K. Coury.

9

THE CLERK: Thank you.

10

DIRECT EXAMINATION

11

BY MS. FORNEY:

12

Q Mr. Coury, sir, are you currently employed?

13

A Yes, I am.

14

Q What is your job?

15

A I work for the Parsons Corporation in Pasadena,
16 California. I am the Vice-President of Parsons Advanced
17 Technology.

18

Q How long have you been in that position?

19

A Since December of 2001.

20

Q And what did you do before that?

21

A I was the Deputy Commissioner of Operations for the
22 Pennsylvania State Police.

23

Q Did you hold the rank of a Lieutenant Colonel in that
24 position?

25

A Yes, I did.

Coury - Direct

1 Q For how long did you hold that position?

2 A From February of 1995 until December of 2001. Actually
3 January of 2002 because of my actual retirement date. I was
4 a Lieutenant Colonel for seven years.

5 Q And in your position as Lieutenant Colonel, did you
6 always hold the title of Deputy Commissioner for Staff?

7 A I was never the Deputy Commissioner of Staff.

8 Q I beg your pardon.

9 A From February of 1995 until July of 2000, I was the
10 Deputy Commissioner of Administration. And from July of 2000
11 until my separation from the Department, I was the Deputy
12 Commissioner of Operations.

13 Q Thank you, sir. Would you tell me what the Deputy
14 Commissioner for Administration is responsible for briefly?

15 A There's actually three Deputy Commissioners in the
16 Department. It is staff, operations and administration.
17 Administration is involved in almost every aspect that deals
18 with people. That would be from hiring through until
19 retirement or termination or separation. So that would be
20 the Bureau of Personnel, the Bureau of Training and
21 Education, the Bureau of Professional Responsibility, the
22 Members Assistance Office, Department Discipline.

23 Q You mentioned within your responsibility was the Bureau
24 of Personnel?

25 A Yes, ma'am. And I also left out the Equal Employment

Coury - Direct

1 Opportunity Office.

2 Q I would like to direct your attention to the spring of
3 2000, specifically April of 2000. Did you become aware that
4 the Office of Legislative Affairs was going to be
5 reorganized?

6 A I don't recall the specific date or time, but, yes, I
7 am familiar with the SPR as we call it of Legislative
8 Affairs.

9 Q I am not referring specifically to the SPR, but I am
10 referring to the reorganization --

11 A Yes.

12 Q -- of the Legislative Affairs Office specifically to
13 remove Ms. Wilhelm's position and replace it with a clerical
14 position.

15 A I am familiar with that, yes, ma'am.

16 Q Did you have any responsibilities in implementing that
17 reorganization?

18 A My basic responsibility was to relay the information
19 from the Commissioner on what he wanted to do with that
20 Office to the Bureau of Personnel to make it happen.

21 Q What information do you recall relaying from the
22 Commissioner to the Bureau of Personnel?

23 A I recall -- and I don't recall in which order I learned
24 this, but I knew that the Commissioner's long term plan for
25 that office was he eventually wanted to downsize it from a

Coury - Direct

1 Major. He didn't want a Major in that office. He didn't
2 want a Captain in that office. He wanted more like a Captain
3 and a Sergeant in that office.

4 He wanted to have the Policy Officer direct report
5 -- be a direct report to him. And he also wanted to do away
6 with the legislative analyst position and have a clerical
7 position in that office was his ultimate goal. I recall
8 relaying that information about the legislative analyst to
9 the Bureau of Personnel.

10 Q Now do you recall whether the Commissioner -- when the
11 Commissioner formulated this plan?

12 A It had been one of the longer term plans that I can
13 recall. When I was the Deputy Commissioner, we often had
14 strategic planning sessions where he would lay out long term
15 goals and ideas that he had. That was one of his longer term
16 goals.

17 Q Do you remember whether the long term goal always
18 included the replacement of the legislative specialist
19 position?

20 A I don't recall how far back that went. But one of the
21 issues had been discussed in the more recent conversations
22 about the clerical position they needed.

23 Q When you refer to more recent conversations, what do
24 you mean?

25 A More toward early 2000.

Coury - Direct

1 Q With whom was he having these conversations, with you
2 or was he having them with you and other people?

3 A I only recall him having them with me. There may have
4 been other people present. I don't recall.

5 Q Do you recall being present at all when Major -- now
6 Major Miller, then Captain Miller made a recommendation that
7 the legislative specialist position be removed from that
8 office and replaced with a clerical?

9 A I don't recall Major Miller, then Captain Miller, being
10 present in a conversation with the Commissioner. But I do
11 remember Captain Miller relaying that type of information to
12 me. I don't know if the Commissioner was present or not.

13 Q What did you do in -- what information did you relay to
14 the Personnel Bureau regarding the legislative specialist
15 position?

16 A That that position was to be downgraded to a clerical
17 position, and that the legislative position, meaning Ms.
18 Wilhelm's position, they should handle it the way we
19 typically handle people who are being furloughed or their
20 position is being abolished.

21 When I refer to that, typically what we try to do
22 is to find another position within the agency that is
23 commensurate to the position that they are leaving. If that
24 is not possible, to find a position that may not be at the
25 same level, but certainly has a salary safe provision to it.

Coury - Direct

1 Or we look to other state agencies to find similar, suitable
2 positions for the individuals.

3 In any instance, separation of the person from the
4 agency would be the last step.

5 Q Whose responsibility was it to perform those steps?

6 A The Director of the Bureau of Personnel.

7 Q Did you take any other steps with regard to the
8 elimination of the legislative specialist position in that
9 office?

10 A Not that I can recall, no.

11 Q I would like to direct your attention now to 1999.
12 There has been testimony that there was an investigation of a
13 Captain Michael Simmers based on a complaint made by Major
14 Richard Morris.

15 Were you aware of that investigation?

16 A Yes, I was.

17 Q How did you become aware of that investigation?

18 A Initially, I became aware of it when as I recall Mr.
19 Morris came to me, said he had a complaint from Ms. Wilhelm
20 regarding Captain Simmers. I asked him the nature of the
21 complaint.

22 He said it was -- as I recall, he said it was a
23 harassment type complaint. I inquired was it sexual
24 harassment, gender harassment, criminal harassment. And he
25 told me he did not know the specific nature of the

Coury - Direct

1 complaint.

2 He looked to me for direction on how he should
3 proceed.

4 Q Did you give him any direction?

5 A Yes. I told him that the process was pretty well
6 spelled out in Administrative Regulations 425, and either Ms.
7 Wilhelm as the complainant/victim should fill out what we
8 call a complainant processing worksheet to initiate an
9 investigation, or if she preferred not to, as her direct
10 supervisor and the person who has direct information from her
11 about the complaint should fill out a complaint processing
12 worksheet for her.

13 Q Do you know whether that was done?

14 A Major Morris completed the complaint and processing
15 worksheet.

16 Q As Deputy Commissioner for Administration, what was
17 your role in the BPR process?

18 A In the BPR process, in the Internal Affairs
19 investigation process more specifically, all of those
20 investigations will flow through the Office of the Deputy
21 Commissioner of Administration.

22 To the best of my recollection, we are probably
23 talking about some five hundred investigations a year. The
24 role of that office is investigate allegations of misconduct,
25 wrongdoing or personnel complaints. So it is difficult to

Coury - Direct

1 review all five hundred investigations.

2 But as a Deputy Commissioner of Investigations, I
3 typically reviewed and monitored the investigations of a more
4 serious nature.

5 Q Did you monitor the investigation based on Major
6 Morris's complaint?

7 A On a limited basis, yes.

8 Q Why was that?

9 A Because the initial allegation was one of harassment.
10 The Pennsylvania State Police takes allegations --
11 particularly internal allegations of sexual harassment,
12 gender harassment or criminal harassment very, very
13 seriously. When you work within a group and you're in the
14 same company, particularly in a small office, you can find if
15 you've got an investigation going, if you have the
16 complainant in the same office and the alleged perpetrator in
17 the same office, having them both work together can have a
18 chilling effect on the investigation where one person doesn't
19 want to testify against the other or give statements.

20 There can be the perception of unfair or undo
21 treatment. There can be a hostile work environment. In my
22 five years as Deputy Commissioner of Administration, if I saw
23 cases that that could be occurring, I would typically
24 transfer one of the people temporarily out of that office
25 because of the chilling effect it could have on the

Coury - Direct

1 investigation.

2 Not knowing the nature of the harassment complaint
3 in this investigation, I did make inquiries to keep track of
4 what type of harassment complaint or allegation was this.

5 Q Did you ever take any steps to transfer anyone out of
6 the Legislative Affairs Office pending the investigation?

7 A No, I did not.

8 Q Why was that?

9 A I was never clear what the nature of the allegation
10 was.

11 Q Did there come a time when you asked the Bureau of
12 Professional Responsibility whether Captain Simmers should be
13 interviewed in that investigation?

14 A Yes.

15 Q Why was that?

16 A Because I think in this particular case, it was still
17 unclear, at least to me, what the nature of the allegation
18 really was -- what type of harassment it was or more details
19 of what was occurring.

20 More specifically, I think in any investigation to
21 be full and complete that the person that is alleged to be
22 the perpetrator should be interviewed at some point. In some
23 investigations, it is the very first person you would
24 interview. In other investigations depending upon the nature
25 of the investigation, they would be the last person to be

Coury - Direct

1 interviewed.

2 Typically, it is my belief that everybody is
3 eventually interviewed.

4 Q Did you direct the Bureau to have Captain Simmers
5 interviewed?

6 A No, I did not.

7 Q What did you do?

8 A I inquired I believe as to had he been interviewed, was
9 he going to be interviewed, something to that nature.

10 Q While the investigation was pending and before Captain
11 Simmers was interviewed, did you have any communication with
12 Captain Simmers about the complaint?

13 A Absolutely none, ma'am.

14 Q Did you have any communication with him about the
15 investigation before he was interviewed?

16 A Absolutely none.

17 Q There has been some testimony in this case regarding a
18 management conflict session involving the Legislative Affairs
19 Office. Are you familiar with that?

20 A Yes, ma'am; I am.

21 Q Can you tell me what the management conflict session
22 was? What is that?

23 A I have never actually taken part in one.

24 MR. PRINGLE: I object, Your Honor. If he hasn't
25 participated in one, how does he know what happens?

Coury - Direct

1 MS. FORNEY: Let me rephrase my question, please.

2 BY MS. FORNEY:

3 Q Did you have any role in causing that session to be
4 held?

5 A Yes, ma'am; I did.

6 MR. PRINGLE: Objection, Your Honor. I am not
7 sure what the relevance of this line of questioning is.

8 THE COURT: I think the plaintiff testified to
9 attending.

10 MR. PRINGLE: She did testify to attending the
11 conference, but her own testimony is limited to her statement
12 as to who also attended.

13 THE COURT: I am going to permit her to put some
14 background information on this. Overruled.

15 MS. FORNEY: I will try to be brief, Your Honor.
16 I am sorry. I lost my last question.

17 (The question, "Did you have any role in causing
18 that session to be held," was read by the reporter.)

19 A Yes, ma'am; I did.

20 BY MS. FORNEY:

21 Q What was that role?

22 A As I recall, I directed the Members Assistance Program
23 that they should conduct a counseling session with the Office
24 of Legislative Affairs.

25 Q Why did you do that?

Coury - Direct

1 A It seemed pretty clear to me from what I particularly
2 had read and heard that there was conflict in that office.
3 It was a very small office. There was only a few people in
4 it.

5 They worked in close contact with each other
6 everyday, but yet there weren't getting along for some
7 reason. I think as a senior manager within the agency to
8 know that and not to try to do something about it would be
9 wrong.

10 I think as a senior leader in the Department, it
11 was my obligation especially since Members Assistance came
12 under me and I was aware of these conflict resolution
13 opportunities that we should make some attempt to find out
14 what is the root cause of what is happening in this office
15 and how we can correct it.

16 Q Could you locate Plaintiff Exhibit 36, please?

17 A Was that Exhibit 36?

18 Q Yes, 36.

19 A They don't appear to be in any order here so it may
20 take me a minute.

21 Q I apologize. We lawyers make a mess of it.

22 A Yes, I have it in front of me.

23 (Memorandum from Conley to Deputy Commissioner of
24 Administration regarding Review of Legislative Affairs Office
25 was introduced as Defendant Exhibit 14.)

Coury - Direct

1 BY MS. FORNEY:

2 Q I am also going to hand you a document marked Defendant
3 Exhibit 14. I would like you to take a look first at
4 Defendant Exhibit 14.

5 Is this a document that you received?

6 A Yes, it is.

7 Q Would you tell me the date of the document?

8 A It is dated November 3rd, 1999.

9 Q Who did you receive it from?

10 A Major Hawthorne N. Conley. He was the Director of the
11 Bureau of Professional Responsibility at that time.

12 Q What is the subject?

13 A The subject is: Review of Legislative Liaison Office.

14 Q Where it says reference one, would you read that
15 reference?

16 A Verbal orders from the Deputy Commissioner of
17 Administration on October 12, 1999 to meet with Major
18 Virginia L. Smith-Elliott, Equal Employment Opportunity Office
19 and Barbara L. Christie, Chief Counsel, in order to discuss
20 existing problems within the Legislative Liaison Office.

21 Q Did you order those individuals to meet?

22 A Yes, I did.

23 Q Why did you do that?

24 A Well, certainly there was this ongoing discord within
25 the office, an Internal Affairs investigation of alleged

Coury - Direct

1 misconduct, and a review of that office that indicated
2 discord.

3 Q When you say review of that office, are you referring
4 to a particular review?

5 A It would be the Bureau of Professional Responsibility's
6 Systems and Process Review of the office.

7 Q Please continue.

8 A And there had been a letter from Ms. Wilhelm to
9 Lieutenant William Horgas where she had requested to sit down
10 with him and to discuss problems within that office. Still
11 not having a good handle at my level on exactly what the
12 nature of these complaints were and what the specific
13 allegations were, and the fact that we had an Internal
14 Affairs investigation on Captain Simmers and we had done an
15 SPR review as we call it of the office, I asked the three of
16 those individuals to review everything we had done to make
17 sure that we had exhausted every possible avenue to answer
18 Ms. Wilhelm's complaint or to address whatever problems
19 seemed to exist there.

20 Q Is Plaintiff Exhibit 36 the letter from Ms. Wilhelm to
21 Lieutenant Horgas that you referred to?

22 A Yes, it is.

23 Q And what information did you get -- strike that. And
24 is this Defendant Exhibit 14 the response that you got from
25 Major Conley?

Coury - Direct

1 A Yes, it is.

2 Q Would you read paragraph one of the response, please?

3 A On Wednesday, October 13, 1999 and Tuesday October 19,
4 1999, Major Virginia Smith-Elliott, Chief Counsel Barbara
5 Christie and I met to discuss the review of the Legislative
6 Liaison Office. Enclosures one through five were
7 independently reviewed before our meeting. We specifically
8 sought to ensure listed in paragraph three of enclosure one
9 had been addressed.

10 Q Would you read paragraphs two and three, please?

11 A Paragraph two: It was our conclusion that inasmuch as
12 the witness was uncooperative providing nearly insufficient
13 and nonspecific information, the Pennsylvania State Police
14 have exhausted all reasonable avenues of inquiry. It was
15 noted though Ms. Wilhelm trusted the Department to evaluate
16 her job when she desired professional advancement. Her
17 obvious distrust of the State Police to handle her complaint
18 properly impeded the investigation and narrowed the
19 investigator's parameters. It's our recommendation that no
20 further action be taken.

21 Paragraph three. Consequently, our meetings
22 concluded. The Executive Office should continue on its
23 current course of direction keeping vigil over the well-being
24 of the Pennsylvania State Police.

25 Q Did you take any action as a result of receiving this?

Coury - Direct

1 A To the best of my knowledge, no. It required no
2 further action on my part.

3 MS. FORNEY: No further questions, Your Honor.

4 THE COURT: Cross-examine.

5 MR. PRINGLE: May we have a sidebar, Your Honor?

6 THE COURT: Yes.

7 (The following discussion was had at sidebar:)

8 MR. PRINGLE: Before I ask him questions, I want
9 to make sure it is okay with you. He raised issues -- he
10 made an assertion that the Department takes sexual harassment
11 claims very seriously. I wanted to present evidence to
12 impeach him on that point.

13 THE COURT: With what?

14 MR. PRINGLE: There was an occasion during the
15 Evanko administration in which an individual was found to
16 have engaged in sexual harassment which Colonel Evanko was
17 aware of and Colonel Coury was also aware of, and that person
18 was not disciplined.

19 THE COURT: Okay. Hold on. We are not trying a
20 case within a case, and that is what is going to happen.

21 MR. PRINGLE: Excuse me?

22 THE COURT: I said we will not try a case within a
23 case. That is what that is going to present.

24 MR. PRINGLE: That is why I asked.

25 THE COURT: Does he have to fly out tonight or

Coury - Cross

1 tomorrow or what? Can we finish with him today?

2 MS. FORNEY: I will inquire what his situation is,
3 Your Honor.

4 THE COURT: I will do it myself.

5 (End of discussion at sidebar.)

6 THE COURT: Are you flying out today or tomorrow?

7 A I will be in town all week.

8 THE COURT: Okay.

9 THE COURT: Mr. Pringle?

10 CROSS EXAMINATION

11 BY MR. PRINGLE:

12 Q You described Colonel Evanko's long term plans to
13 reorganize the office. I believe you said in early 2000, you
14 discussed those plans with him; is that accurate?

15 A I was aware of his plans in early 2000.

16 Q Were you aware of those plans in late 1999?

17 A I could not say, sir.

18 Q When you say early 2000, would that be January of 2000?

19 A It would be the beginning of 2000. I would not try to
20 put a month on it.

21 Q January, February would be fair to say?

22 A Again, I couldn't put a month on it.

23 Q Do you know whether or not at the time you discussed
24 those plans in early 2000 then Captain Miller was appointed
25 as Director of the Legislative Affairs Office?

Coury - Cross

1 A I don't recall, sir.

2 Q Were you close friends with Captain Michael Simmers?

3 A Yes, sir.

4 Q And would you describe the nature of that friendship?

5 A Captain Simmers and I have known each other probably
6 since 1980. Both professionally and personally, we have been
7 friends.

8 MR. PRINGLE: No further questions.

9 THE COURT: Redirect?

10 MS. FORNEY: No, Your Honor.

11 THE COURT: You may step down.

12 (Whereupon, the testimony of Mr. Coury was
13 concluded.)


14

15

16 I hereby certify that the proceedings and evidence
17 are contained fully and accurately in the notes taken by me
18 on the trial of the above cause, and that this copy is a
correct transcript of the same.

18

19


Vicki L. Fox, RMR
Official Reporter

20

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